

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VERNON WAYNE McNEAL,

No. 2:05-cv-00441-GEB-EFB

Plaintiff,

v.

F. LECKIE; A. ERVIN; ROY CHATHAM, substituted party for C. CHATHAM, deceased; and D. VAN LEER;

ORDER GRANTING PLAINTIFF'S MOTION FOR CONTINUANCE

Defendants.*

On February 8, 2016, Plaintiff filed a motion in which he requests a continuance of the February 23, 2016 trial date. (Pl.'s Mot. Req. Continuance, ECF No 254.) Plaintiff filed a declaration in support of his motion, in which he avers in relevant part:

On February 2, 2016[, I] was transfer[ed] to Centi[nela] State Prison.

. . . .

[I am] not prepare[d] to go to trial on February 23, 2016[.] Plaintiff still ha[s] to exchange exhibits with defendants

. . . .

Plaintiff is still having double vision, headache[s,] and blurr[iness] all the time.

* The caption has been amended to reflect the correct spelling of Defendant Leckie's last name and according to the substitution of Roy Chatham for Defendant C. Chatham, deceased. (See Order, Jan. 12, 2016, ECF No. 242.)

1 Doctors here are trying to fix the problem
2 with eyeglasses but it's not working. Reading
3 and writing for long period[s] of time make[]
4 the double vision worse and I cannot focus
5 and concentrate on what I am doing. . . .

6 [I] also have to get establish[ed] here
7 at this prison and start receiving law
8 library.

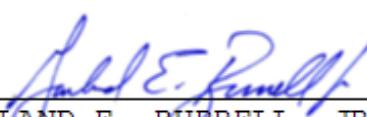
9 (Pl.'s Decl. ¶¶ 4, 6, 8, ECF No. 254 (paragraph numbers
10 omitted).)

11 In light of Plaintiff's referenced averments,
12 Plaintiff's continuance motion is granted. See United States v.
13 Pope, 841 F.2d 954, 956 (9th Cir. 1988) (listing prejudice to the
14 movant as a factor to be considered in deciding whether to grant
15 a continuance); accord Reynolds v. Gerstel, 624 F. App'x 552, 523
16 (9th Cir. 2015) (applying the same factors in a civil case).
17 Trial is rescheduled to commence at 9:00 a.m. on February 28,
18 2017.

19 Further, the January 7, 2016 writ of habeas corpus
20 issued for Alfred Rollings, CDCR# P24726, (ECF No. 240), and the
21 February 3, 2016 amended writ of habeas corpus issued for Vernon
22 Wayne McNeal, CDCR# P34419, (ECF No. 250), are VACATED.

23 Dated: February 9, 2016

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GARLAND E. BURRELL, JR.
Senior United States District Judge